

**MINUTES OF THE OPEN SESSION
OF THE RHODE ISLAND ETHICS COMMISSION**

December 8, 2015

The Rhode Island Ethics Commission held its 13th meeting of 2015 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, December 8, 2015, pursuant to the notice published at the Commission offices, the State House Library, and electronically with the Rhode Island Secretary of State.

The following Commissioners were present:

Ross Cheit, Chair
Robert A. Salk, Secretary
M. Therese Antone

Mark B. Heffner
Marisa A. Quinn

Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Staff Attorneys Teresa Giusti and Amy C. Stewart; Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca; and Commission Administrative Officer Michelle R. Berg.

At 9:03 a.m., the Chair opened the meeting. The first order of business was:

Approval of minutes of the Open Session held on October 20, 2015.

Upon motion made by Commissioner Quinn and duly seconded by Commissioner Antone, it was

VOTED: To approve minutes of the Open Session held on October 20, 2015.

AYES: M. Therese Antone; Robert A. Salk; Marisa A. Quinn; Ross Cheit.

ABSTENTIONS: Mark B. Heffner.

The next order of business was:

Advisory Opinions.

The advisory opinions were based on draft advisory opinions prepared by Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date.

The first advisory opinion was that of:

John Kane, Jr., the Building/Zoning Official for the Town of Middletown, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from participating in Middletown Zoning Board matters in which a member of the Fort Adams Trust Board of Directors represents himself or another person as an attorney, given the Petitioner's business dealings with the Fort Adams Trust.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Antone and duly seconded by Commissioner Quinn, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to John Kane, Jr., the Building/Zoning Official for the Town of Middletown.

The final advisory opinion was that of:

Keith A. Oliveira, a member of the Providence School Board, who is also employed as the Chief Operating Officer of the Rhode Island Nurses Institute Middle College Charter School, requesting an advisory opinion regarding whether the Code of Ethics prohibits him from simultaneously serving in both positions and whether he may participate in School Board actions that directly impact that charter school.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Antone and duly seconded by Commissioner Heffner, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Keith A. Oliveira, a member of the Providence School Board, who is also employed as the Chief Operating Officer of the Rhode Island Nurses Institute Middle College Charter School.

The next order of business was:

Director's Report.

Executive Director Willever reported that there were four (4) advisory opinions and seven (7) complaints pending, three (3) of which were staff-initiated complaints for the failure to timely file financial disclosure statements. He stated that twelve (12) APRA requests were granted since the last meeting, eleven (11) of which were completed within one (1) business day.

Executive Director Willever also reported that the Commission's long time Special Projects Coordinator/Office Manager, Patricia Barker, retired at the end of November after more than thirty years of service. He stated that he is awaiting approval to begin the hiring process for that position.

The next order of business was:

Report on Financial Disclosure.

Steven T. Cross, Chief of Investigations, presented the Commission with a summary of the history and procedures of Operation Compliance in addition to a status update on the non-filing complaints that were filed by the Commission staff this year. Investigator Cross informed that Operation Compliance was instituted by Executive Director Willever in 2002 to improve compliance with the annual financial disclosure statement mandate. He stated that, in the first stage of Operation Compliance, Commission staff implemented a process for sending reminder notices to all those who failed to file their annual Financial Disclosure Statements (“Statements”) by the April deadline as a courtesy, although it was not required by law. Next, he informed that Deputy Chief Investigator Peter J. Mancini began contacting the city and town solicitors with a list of those public officials from their respective cities or towns who failed to file their Statements. Then, he advised that in 2012 the Commission initiated online filing, beginning with the 2011 Statement, with a goal of receiving at least 25% of the Statements through online filing. He informed that in the first year of the system 61% of the Statements were filed online. He stated that the percentage of online participation has continued to increase, with 73% of the Statements filed online this year.

Investigator Cross advised that this year we had a 76% compliance rate for the 2014 Statements by the April 24, 2015 deadline. He stated that on June 26, 2015, Commission staff mailed reminder notices to those who had yet to file their 2014 Statements. He informed that on July 10, 2015, the last day to respond to the reminder notice, the compliance rate had increased to 93%. He stated that after further efforts by Commission Investigators, Staff Attorneys, and Administrative staff, the current compliance rate is 98%. He noted that we have 100% compliance for all judges, general officers, state senators and representatives, and Ethics Commission staff and Commissioners.

Investigator Cross also discussed the financial disclosure complaints that were initiated by Commission staff on October 23, 2015. He stated that a total of 12 non-filing complaints were filed against: one (1) city council member, three (3) school committee members, and eight (8) persons who failed to file a Statement for three (3) or more consecutive years irrespective of their government position. He advised that nine (9) of these complaints have settled in accordance with the fine schedule approved by the Commission at its September 22, 2015 meeting. He informed that the remaining complaints, if not settled, will be presented to the Commission in due course. He concluded by emphasizing the staff’s focus on compliance, of which the non-filing complaints are a necessary component, in order to maintain the current high compliance rate.

Chair Cheit thanked Investigator Cross for this presentation. He stated that Operation Compliance is a terrific program and it was good for the Commissioners to be reminded of all the efforts made by Commission staff that occur long before non-filing complaints come before the Commission. In response to Chair Cheit, Investigator Cross stated that Fire Districts were reviewed this year and will be on the list for potential complaints again next year.

The next order of business was:

Executive Session.

At 9:25 a.m., upon motion made by Commissioner Antone and duly seconded by Commissioner Heffner, it was unanimously

VOTED: To go into Executive Session, to wit:

1. Motion to approve the minutes of the Executive Session held on October 20, 2015.
2. In re: Bernard A. Hawkins, Complaint No. 2015-8, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

*Legal Counsel Alves left the meeting at 9:26 a.m. upon recusing from In re: Bernard A. Hawkins, Complaint No. 2015-8. He did not return.

The Commission reconvened in Open Session at approximately 9:30 a.m. Upon motion made by Commissioner Antone and duly seconded by Commissioner Heffner, it was unanimously

VOTED: To seal the minutes of the Executive Session held on December 8, 2015.

The next order of business was:

Report on Actions Taken in Executive Session.

Chair Cheit reported that the Commission took the following actions in Executive Session:

1. Voted to approve the minutes of the Executive Session held on October 20, 2015.
[Reporter's note – The vote was as follows:
AYES: M. Therese Antone; Robert A. Salk; Marisa A. Quinn; Ross Cheit.
ABSTENTIONS: Mark B. Heffner.]
2. Unanimously voted (5-0) to initially determine that the facts alleged in In re: Bernard A. Hawkins, Complaint No. 2015-8, if true, are sufficient to constitute a knowing and willful violation of the Code of Ethics and authorized an investigation.
[Reporter's note: Legal Counsel Alves recused from participating in this matter and was not present in the meeting room while it was considered.]

The final order of business was:

New Business

There being none, at 9:31a.m., upon motion made by Commissioner Antone and duly seconded by Commissioner Heffner, it was unanimously

VOTED: To adjourn.

Respectfully submitted,

Robert A. Salk
Secretary